

FILED

FEB 19 2019

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Shikeb Saddozai-CDCR#AY1590
California Correctional Institution
C1-243
P.O. Box 1905
Tehachapi, California, 93581
In Pro se

SHIKEB SADDOZAI ,

Plaintiff ,

V.

N. Malikian, et al.,

Defendants.

Case No.C-18-05558 BLF(PR)

MOTION FOR APPOINTMENT
OF COUNSEL

Pursuant to 28 U.S.C §1915 (e)(1) Plaintiff Shikeb Saddozai,
moves for an order appointing counsel to represent him in this
case. In support of this motion, Plaintiff States ;

1. Plaintiff is unable to afford counsel, and has requested
leave to proceed IN FORMA PAUPERIS ,and as a result of being
indigent,plaintiff has been granted appointment of counsel by the
First Appellate District on criminal matter. SEE: Exhibit-A.

2. The issues in the case are complex,because it contains
several different legal claims, with each claim involving a
different set of defendants all related to each other,arising
out of the same transaction,occurrence,or series of transactions
or occurrences. Fed R.Civ.P 20(a)(2)

- 1 3. The Plaintiff has no legal knowledge of the law, with only a
2 high school education, not competent to try the case, with a
3 physical, and mental disability that would make it difficult for
4 Plaintiff to present case, which an attorney can make a
5 difference in the outcome of case. SEE: Exhibit -B
- 6 4. The Plaintiff has extremely limited access to the law library
7 Photo copying, notarizing, and legal reference materials, and
8 repeatedly denied law books by prison facility, while incarcerated
9 SEE: Exhibit-C.
- 10 5. The Plaintiff wrote letters to the following attorney's :
11 John E. Hill, Joseph Saei, R. Michael Flynn, asking them to
12 handle this case and Plaintiffs letters requesting representation
13 have been rejected. SEE: Exhibit - D.
- 14 6. The case requires investigation that plaintiff will not be
15 able to do because of his imprisonment preventing his ability
16 to litigate, such as obtaining the following: medical records,
17 jail incident reports that plaintiff is not allowed to have,
18 identity of witnesses and defendants, discovery of documents,
19 interviewing other inmates who were witnesses to abuse and
20 mistreatment, and prior history of officers as well as
21 preparation beyond the ability of a Pro se prisoner.
- 22 7. The Plaintiff and witnesses have been transferred and or
23 released where the events last occurred described in Plaintiffs
24 complaint that know the facts, that need to be proved, and due to
25 changed circumstances.
- 26 8. There will be credibility issues strongly expected to be
27 disputed which will require an attorney to conduct cross exam-
ination that will involve conflicting testimony, and counsel
would better enable plaintiff to present evidence by virtue of
experience and not of being locked up in Plaintiffs custody.
9. Expert testimony will be needed which involves technical
medical and mental health issues and requiring process serving
on multiple defendants and witnesses, that will require
depositions , some who are supervisory officials, presenting
complex legal issues of determining which defendants were
sufficiently personally involved in the Constitutional violations
to be held liable.
10. Plaintiffs case has merit, and the aforementioned factors
have been met.

1 12. Plaintiff has intentionally had his legal materials
2 confiscated and destroyed, and legal correspondence taken and
3 violated by defendants to prevent Plaintiff from initiating a
complaint and obstruct his access to the courts, including denied
4 delivery of legal reference materials.

5 11. The Plaintiff has demanded a jury trial, which requires
6 much greater legal skills than the Plaintiff has or can develop
7 such as the totality of the conditions, state of mind. issues of
8 deliberate indifference, defense of qualified immunity, the
9 Constitutionality of a federal statute, questions of the extent
of prisoners rights under the federal disability statutes, and
determining whether a prison regulation violates the
Turner v. Safley, "reasonable relationship" standard.

10 13. Should the courts deny Plaintiff's MOTION FOR APPOINTMENT
11 OF COUNSEL, Plaintiff request the courts to provide a brief
12 recital as to why the motion should not be granted.
Allen v. Thomas, 388 F.3d 147,150(5th Cir.2004); Howland v.
Kilquist, 833 F.2d 639,646(7th Cir1987)

13
14
15 WHEREFORE, this Honorable Court should appoint counsel
16 to represent the Plaintiff in this case.
17
18
19
20
21

22 Date: February 12th 2019

23 *A. Saddozai*

24 Shikeb Saddozai-CDCR# AY1590
25 California Correctional Institution
26 Facility C1-243
P.O. Box 1905
Tehachapi, California ,93581
27

EXHIBIT - A

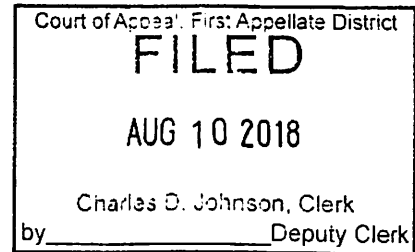
EXHIBIT A

Court of Appeal, First Appellate District
Charles D. Johnson, Clerk Executive Officer
Electronically RECEIVED on 8/10/2018 at 11:52:37 AM

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION 5



THE PEOPLE,

Plaintiff and Respondent,

v.

Shikeb Saddozai,

Defendant and Appellant.

A154894

(San Mateo County

Super. Ct. No. 16NF001414)

Order Appointing Counsel

By the Court:

Upon the recommendation of the First District Appellate Project, Michael Allen (State Bar No. 254082) is appointed to represent appellant Shikeb Saddozai in this Court on an independent basis.

If the record has not yet been transmitted, the Clerk of the Superior Court is directed to send the record on appeal to:

Michael Allen
12655 W. Jefferson Blvd
Fl. 4
Los Angeles, CA 90066.

Appellant's Opening Brief shall be filed forty (40) days from either the date of the filing of the record or from the date of this order, whichever is later.

Appellant:

Shikeb Saddozai (AY1590)
San Quentin State Prison
San Quentin, CA 94974

Appointed Counsel:

Michael Allen
12655 W. Jefferson Blvd
Fl. 4
Los Angeles, CA 90066

EXHIBIT - B

EXHIBIT B



Individual Report for SADDZOAI S

Report Identification Information

Student ID: AY 1590
 Test Date: 01/24/19
 Report Date: 01/25/19
 Page No: 16

Test Group: Sutton01242019AM
 Test Name: TABE 9/10 Basic Ed
 Examiner: Sutton, B ABE 3
 Site Name: 03
 Tag Group: Entire Group

| Skill Area | L/F | NC | NA | SS | GE | NP | NS | OM |
|-------------------------|-----|----|-----|-----|-----|----|----|----|
| Reading | D9 | 23 | 50 | 469 | 4.4 | 29 | 4 | 20 |
| Mathematics Computation | D9 | 11 | 39 | 371 | 2.7 | 7 | 2 | 0 |
| Applied Mathematics | D9 | 15 | 50 | 442 | 3.8 | 22 | 3 | 11 |
| Language | D9 | 22 | 55 | 443 | 2.7 | 20 | 3 | 0 |
| Total Mathematics | | 26 | 89 | 406 | 3.1 | 12 | 3 | |
| Total Battery | | 71 | 194 | 439 | 3.3 | 19 | 3 | |

L/F=Test Level & Form
 NC=Number Correct
 NA=Number Attempted

SS=Scale Score
 GE=Grade Equivalent
 NP=National Percentile

NS=National Stanine
 OM=% Objectives Mastered

| Predicted GED | | |
|----------------|-------|---------------|
| Content Area | Score | Status |
| Reading | 320 | Instructional |
| Mathematics | 280 | Instructional |
| Writing | 350 | Instructional |
| Science | 320 | Instructional |
| Social Studies | 330 | Review |
| Average | 330 | Instructional |

| NRS Levels | | |
|-------------------|-------|----------------------------|
| Content Area | Level | Description |
| Reading | 3 | Low Intermediate Education |
| Language | 2 | Beginning Basic Education |
| Total Mathematics | 2 | Beginning Basic Education |

| Objectives | Score | Mastery Level | Percent Correct |
|--------------------------------|-------|-----------------|-----------------|
| Reading | | | |
| D01 Intrap Graph | 0/4 | Non-Mastery | 0 |
| D02 Wd In Contx | 0/4 | Non-Mastery | 0 |
| D03 Recall Info | 11/13 | Mastery | 84 |
| D04 Const Mean | 8/17 | Non-Mastery | 47 |
| D05 Eval/Ex Mng | 4/12 | Non-Mastery | 33 |
| Subtest Average | | | 46 |
| Mathematics Computation | | | |
| D13 Mul Whl Num | 2/5 | Non-Mastery | 40 |
| D14 Div Whl Num | 2/5 | Non-Mastery | 40 |
| D15 Decimals | 1/8 | Non-Mastery | 12 |
| D16 Fractions | 2/8 | Non-Mastery | 25 |
| D17 Integers | 3/9 | Non-Mastery | 33 |
| D18 Percents | 1/5 | Non-Mastery | 20 |
| Subtest Average | | | 28 |
| Applied Mathematics | | | |
| D21 Num Operatn | 1/8 | Non-Mastery | 12 |
| D22 Comp Contxt | 3/4 | Mastery | 75 |
| D23 Estimation | 1/5 | Non-Mastery | 20 |
| D24 Measurement | 3/6 | Partial Mastery | 50 |
| D25 Geometry | 1/6 | Non-Mastery | 16 |
| D26 Data Analy | 3/7 | Non-Mastery | 42 |
| D27 Stat/Prob | 2/4 | Partial Mastery | 50 |
| D28 Pre-Alg/Alg | 1/6 | Non-Mastery | 16 |
| D29 Prob Solvg | 0/4 | Non-Mastery | 0 |
| Subtest Average | | | 30 |

| Objectives | Score | Mastery Level | Percent Correct |
|-----------------|-------|-----------------|-----------------|
| Language | | | |
| D30 Usage | 9/15 | Partial Mastery | 60 |
| D31 Sent Forma | 1/7 | Non-Mastery | 14 |
| D32 Para Devel | 3/11 | Non-Mastery | 27 |
| D33 Capitaliz | 2/4 | Partial Mastery | 50 |
| D34 Punctuation | 5/11 | Non-Mastery | 45 |
| D35 Writg Conv | 2/7 | Non-Mastery | 28 |
| Subtest Average | | | 40 |
| Total Average | | | 36 |

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Individual Skills Profile

12/14/2018
08:50:18

Page 7 of 8

ISP

Saddozai, Shikeb

Agency: 8151 - California Department of
Corrections & Rehabilitation (CDCR)
Program: Basic Skills (ABE)

ID# 01251590

| Most Recent | Form | Date | Scale Score | NRS Level | Form Level | Number of Items | | |
|-------------|------|------------|-------------|-----------|------------|-----------------|---------|-----------|
| | | | | | | Total | Correct | Attempted |
| Math | 035M | 12/13/2018 | 210 | 2 | C | 35 | 8 | 35 |

| Math Competencies | N | Correct |
|-------------------|----|---------|
| Computation | 35 | 22 % |

| CASAS Math Content Standards (2009) | | | N | Correct |
|---|----|--|----|---------|
| Number sense | 17 | | 17 | 41 % |
| Measurement | 17 | | 17 | 17 % |
| Statistics, Data Analysis and Probability | 7 | | 7 | 28 % |

EXHIBIT -C

EXHIBIT C

STATE OF CALIFORNIA
INMATE/PAROLEE APPEAL
CDCR 602 (REV. 08/09)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Side 1

IAB USE ONLY

Institution/Parole Region:

Log #:

Category:

FOR STAFF USE ONLY

You may appeal any California Department of Corrections and Rehabilitation (CDCR) decision, action, condition, policy or regulation that has a material adverse effect upon your welfare and for which there is no other prescribed method of departmental review/remedy available. See California Code of Regulations, Title 15, (CCR) Section 3084.1. You must send this appeal and any supporting documents to the Appeals Coordinator (AC) within 30 calendar days of the event that lead to the filing of this appeal. If additional space is needed, only one CDCR Form 602-A will be accepted. Refer to CCR 3084 for further guidance with the appeal process. No reprisals will be taken for using the appeal process.

Appeal is subject to rejection if one row of text per line is exceeded.

WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First):

Saddozai, Shikeb

CDC Number:

AY1590

Unit/Cell Number:

CCI, C-1-243

Assignment: CCI, Appeal Coordinator.

State briefly the subject of your appeal (Example: damaged TV, job removal, etc.):

Emergency Appeal warranted CCR 15 § 3084.9(1)& 3391.(b)(d)

A. Explain your issue (If you need more space, use Section A of the CDCR 602-A): On of February 5th, 2019, (R&R) Correctional Officer, T. Reed, responsible for inmate property, failed, and refused, providing me my incoming law book, sent from book store. Prior to delivery, Mail Room

B. Action requested (If you need more space, use Section B of the CDCR 602-A): I request the following actions be taken: (1) Complaint for misconduct be filed against Departmental Peace Officers, responsible for denying me my legal publication material pursuant to Penal

Supporting Documents: Refer to CCR 3084.3.

☒ Yes, I have attached supporting documents.

List supporting documents attached (e.g., CDC 1083, Inmate Property Inventory; CDC 128-G, Classification Chrono):

CDCR-1858, Rights, Responsibility CDCR-22, Mail Room Response

CDCR-22, Mail Room Response Book Store-Email, Shipping Info

☐ No, I have not attached any supporting documents. Reason: _____Inmate/Parolee Signature: SaddozaiDate Submitted: 02-05-2019☐ By placing my initials in this box, I waive my right to receive an interview.

STAFF USE ONLY

C. First Level - Staff Use Only

Staff - Check One: Is CDCR 602-A Attached? ☐ Yes ☐ No

This appeal has been:

☐ Bypassed at the First Level of Review. Go to Section E.☐ Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____☐ Cancelled (See attached letter) Date: _____☐ Accepted at the First Level of Review.

Assigned to: _____ Title: _____ Date Assigned: _____ Date Due: _____

First Level Responder: Complete a First Level response. Include Interviewer's name, title, interview date, location, and complete the section below.

Date of Interview: _____ Interview Location: _____

Your appeal issue is: ☐ Granted ☐ Granted in Part ☐ Denied ☐ Other: _____

See attached letter. If dissatisfied with First Level response, complete Section D.

Interviewer: _____ Title: _____ Signature: _____ Date completed: _____

(Print Name)

Reviewer: _____ Title: _____ Signature: _____

(Print Name)

Date received by AC: _____

AC Use Only

Date mailed/delivered to appellant ____ / ____ / ____

STATE OF CALIFORNIA
INMATE/PAROLEE APPEAL FORM ATTACHMENT
CDCR 602-A (REV. 03/12)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Side 1

| | | | |
|--------------------|----------------------------|--------|-----------|
| IAB USE ONLY | Institution/Parole Region: | Log #: | Category: |
| FOR STAFF USE ONLY | | | |

Attach this form to the CDCR 602, only if more space is needed. Only one CDCR 602-A may be used.

Appeal is subject to rejection if one row of text per line is exceeded. WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

| | | | |
|--|-----------------------|----------------------------------|---|
| Name (Last, First): Saddozai , Shikeb | CDC Number: AY1590 | Unit/Cell Number: CCI-C-1-243 | Assignment: Appeal Coordinator, CCI |
|--|-----------------------|----------------------------------|---|

A. Continuation of CDCR 602, Section A only (Explain your issue): Supervisor; (OSS-I), M. Munoz, confirmed with me in advance, any books, upon arrival to facility will be processed as "Publication", not as an inmate package. (CCR 15 § 3134.1) (SEE: Exhibit-A). Reed failed, and refused, honoring supervisor response, after reviewing supporting documents, out of retaliatory, and discriminatory animus against me, nor would Reed, allow me to seek remedy with supervisor to prevent correcting his error, prior to returning my law book back to sender. No receipt, stating reasons for rejection was provided to me or sender, and because law book pertained to my active legal cases, while on appeal, I am denied access to the courts or in assisting in my defense, thus effecting my personal liberty, due process, & equal protection of the law, resulting in the adverse effect of my welfare within the conditions of my confinement placing me in emotional, mental, distress. On 1/3/19 law book, was denied to me by mail room due to no CDCR number, (SEE: Exhibit-B). This information is false, (SEE: Exhibit-C), in addition, staff deceptively provided no notice of mail disapproval, to prevent me from assisting in my defense.

Inmate/Parolee Signature: A. Saddozai Date Submitted: 02-05-2019

STAFF USE ONLY

B. Continuation of CDCR 602, Section B only (Action requested): Code section 148.6, thereby in violation of my First, Sixth, & Fourteenth Amendment of the U.S. Constitution. (2). I request assistance with the full names, badge numbers of responsible officers for the accuracy of my report. (3). I request the retaliation against me cease and no future retaliation be taken against me for exercising my rights by correctional officers. (4). I request policy be put in place, allowing books to be received through facility mail room system to avoid errors. (5). I request audio, video, surveillance be placed within (R&R) for consistency, security, and safety of staff, and inmates.

Inmate/Parolee Signature: A. Saddozai Date Submitted: 02-05-2019

STATE OF CALIFORNIA

INMATE/PAROLEE REQUEST FOR INTERVIEW, ITEM OR SERVICE
CDCR 22 (10/09)CA STATE PRISON
CCJ - TEHACHAPI
FACILITY C BLDG 1

DEPARTMENT OF CORRECTIONS AND REHABILITATION

SECTION A: INMATE/PAROLEE REQUEST

| | | | |
|--|--|------------------------------|--|
| NAME (Print): (LAST NAME) Saddozai | (FIRST NAME) Shikeb | CDC NUMBER: AV1590 | SIGNATURE: S. Saddozai |
| HOUSING/BED NUMBER: (C.I.) C-1-243 | ASSIGNMENT: Mail Room Supervisor | HOURS FROM ____ TO ____ | TOPIC (I.E. MAIL, CONDITION OF CONFINEMENT/PAROLE, ETC.): Certified Mail |

CLEARLY STATE THE SERVICE OR ITEM REQUESTED OR REASON FOR INTERVIEW:

Thank you for accepting my Inmate request, pardon me for any inconvenience. I have an active legal case, that is time sensitive, I would appreciate your assistance in certifying my legal mail and being present for the process to confirm cost, and receipt of delivery. In addition I am preparing to receive legal books from book distributor, will this be processed as a publication or a special inmate package. Please advise.

METHOD OF DELIVERY (CHECK APPROPRIATE BOX) **NO RECEIPT WILL BE PROVIDED IF REQUEST IS MAILED **

☒ SENT THROUGH MAIL: ADDRESSED TO: **Mail Room Supervisor (C.I.) Facility** DATE MAILED: **12, 19 2018**
☐ DELIVERED TO STAFF (STAFF TO COMPLETE BOX BELOW AND GIVE GOLDENROD COPY TO INMATE/PAROLEE):

| | | | |
|--------------------------------|-------|------------------------|--|
| RECEIVED BY: PRINT STAFF NAME: | DATE: | SIGNATURE: | FORWARDED TO ANOTHER STAFF? (CIRCLE ONE) YES NO |
| IF FORWARDED - TO WHOM: | | DATE DELIVERED/MAILED: | METHOD OF DELIVERY: (CIRCLE ONE) IN PERSON BY US MAIL |

SECTION B: STAFF RESPONSE

| | | | |
|---|--------------------------|-------------------------------|-----------------------------------|
| RESPONDING STAFF NAME: M. MUNOZ | DATE: 12/17/18 | SIGNATURE: M. Munoz | DATE RETURNED: 12/17/18 |
|---|--------------------------|-------------------------------|-----------------------------------|

The mailroom does not provide certified postage for Inmate mail. Legal mail would be handled in accordance with Title 5, Section 3141-3145. You may request a legal log showing you dates of mail-out and delivery of Confidential mail. Any books received by a book distributor will be handled through R&R as a publication.

SECTION C: REQUEST FOR SUPERVISOR REVIEW

PROVIDE REASON WHY YOU DISAGREE WITH STAFF RESPONSE AND FORWARD TO RESPONDENT'S SUPERVISOR IN PERSON OR BY US MAIL. KEEP FINAL CANARY COPY.

| | |
|------------|-----------------|
| SIGNATURE: | DATE SUBMITTED: |
|------------|-----------------|

SECTION D: SUPERVISOR'S REVIEW

| | | | |
|--------------------------------|-------|------------|----------------|
| RECEIVED BY SUPERVISOR (NAME): | DATE: | SIGNATURE: | DATE RETURNED: |
|--------------------------------|-------|------------|----------------|

EXHIBIT - D

EXHIBIT - D

EXHIBIT D



TEL (415) 563 8583
FAX (415) 223 9717

1388 SUTTER STREET, SUITE 810
SAN FRANCISCO, CA 94109

SS@SANJAYSCHMIDTLAW.COM

March 16, 2018

VIA US MAIL

Shikeb Saddozai 1168472
300 Bradford Street
Redwood City, CA 94063

Dear Mr. Saddozai:

Thank you for contacting my office recently. I am sorry to hear about your matter. I am writing to confirm to you that I cannot take your case. Please be advised that I will not be representing you or taking any action on your behalf. Your letter is enclosed as you requested.

Please understand that we have not investigated your case and are expressing no opinion as to its merits or the likelihood you will prevail. Rather, we are informing you that we are unable to take your case. My decision is not meant to reflect on the merits of your matter and is not intended to discourage you from pursuing the matter.

I strongly recommend that you consult with another attorney about this matter, without delay. There are various statutes of limitations imposing time deadlines and other requirements on the commencement of suits. **Multiple statutes of limitations could apply.** Some limitation periods are as short as six-months from the date of the injury-causing event. Such time limits usually apply to state law claims against public entities and their employees such as police departments, the State, cities, counties, schools, county hospitals, libraries, fire departments, and other government entities. Other limitation periods can be as short as one year and other limitation periods are two years. There are other limitation periods that also can apply. ***You need to seek legal counsel immediately to identify and calculate the applicable statutes of limitations so that you preserve your right to sue.*** Failure to comply with the applicable statute(s) of limitations could forever bar you from pursuing your case or could bar certain claims. **Again, there are certain rigid time restrictions that must be met in prosecuting your case or your rights might be forever lost. Therefore, if you intend to pursue this matter, it is imperative that you not delay in moving the case forward. Contact another attorney right away.**

Again, I will not be representing you in this matter and will not be taking action on your behalf. We wish you the best of luck in the future. Thank you for contacting my office.

Kind Regards,

LAW OFFICE OF SANJAY S. SCHMIDT

Sanjay S. Schmidt

Sanjay S. Schmidt



April 2, 2018

Shikeb Saddozai, #1168472
300 Bradford Street
Redwood City, CA 94063
LEGAL MAIL

Re: Decision Not To Undertake Legal Representation Regarding Saddozai v. Peter Nelson,
et al., USDC Case No: 3:17-cv-00560-JD

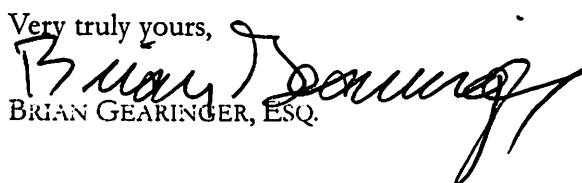
Dear Mr. Saddozai:

We have decided *not* to represent you regarding the above-referenced matter. We are returning all of the documents that you provided to us, which is your letter dated 2-18-2018, and the envelope transmitting it postmarked 3-23-2018. This letter also confirms that we have *not* provided you with any legal advice regarding this matter. Finally, we will *not* be making any claims or filing any lawsuits on your behalf.

Our decision has no effect on the merits of any aspect of the above-referenced matter. Please be advised that various laws impose strict deadlines as to when claims can be made or lawsuits can be filed. Your failure to meet these deadlines may prevent you from successfully prosecuting a claim or a lawsuit. Therefore, we encourage you to consult with your current lawyers if you decide to pursue this matter.

We wish you success in resolving this matter to your satisfaction.

Very truly yours,


BRIAN GEARINGER, ESQ.

Enclosures